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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/214,865	01/14/1999	YOSHIHIKO TAKISHITA	Q52837	8105

7590 12/15/2006

SUGHRUE MION ZINN MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037

EXAMINER

GUTIERREZ, ANTHONY

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/214,865

Applicant(s)

TAKISHITA, YOSHIHIKO

Examiner

Anthony Gutierrez

Art Unit

2857

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 16 November 2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


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Continuation of 11. does NOT place the application in condition for allowance because:

Applicant has argued that the reference to Kanda et al. does not teach use as a host computer, that the reference to Wood et al. fails to teach determination means or reception level means of a host computer, that the Examiner has mischaracterized Applicant's response, that the motivation for combination relies on hindsight, and that other obviousness type rejections are improper.

The Examiner maintains that the COMBINATION of Kanda et al. and Wood et al. teach Applicant's claimed invention. The Examiner maintains that it is not necessary for Kanda et al. to teach use as a host computer because one of ordinary skill in the art would have found it obvious to employ the teachings of Kanda et al. as a host computer in view of the system of Wood et al. Once one of ordinary skill in the art would have combined the teachings of these references, the invention would have provided a host computer with the determination or reception level means. That is why the Examiner continues to maintain that Applicant's response continues to rely on a piecemeal interpretation of the references.

The Applicant in fact relies on a piecemeal interpretation to presently mischaracterize the Examiner's arguments (Applicant's Arguments page 4, third paragraph, "Indeed, the Examiner's statements...") with respect to the Final Rejection (page 5, item 6) by asserting that the Examiner relies ONLY on the citations in Kanda et al. to teach the reception level means of a host computer. The Examiner was referring to Kanda et al. to teach that which was QUOTED from the claims regarding the reception level means, NOT the host computer. It is clear from the preceding statement in those arguments, that the Examiner was only addressing the quoted limitation involving reception level comparison means, as the Examiner had already introduced this analysis regarding the host computer provided by the COMBINATION of Kanda and Wood.

The Examiner maintains that the motivation to combine the references is proper and does not rely on hindsight. Further support for the reasons already provided for combination includes analysis of the titles of the references. The titles show that Kanda et al. teaches a HIGH QUALITY IMAGE ULTRASONIC DIAGNOSTIC apparatus and that Wood et al. teaches UNIVERSAL ACCESS to ULTRASONIC DIAGNOSTIC IMAGES. The Examiner maintains that one of ordinary skill in the ULTRASONIC DIAGNOSTIC art would have recognized that UNIVERSAL ACCESS to HIGH QUALITY IMAGES would have been beneficial.

Applicant's additional arguments involving combination with other references, as best understood by the Examiner, merely assert inconsistencies in the rejection without specifically referring to those features of the claims that allegedly provide the inconsistencies.